IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

PRESENT
THE HON'BLE MR JUSTICE R.SUBHASH REDDY
WRIT PETITION NO : 28753 of 1997

Dated 24th January, 2007

Between

Busanaboyina Ram Krishna

...Petitioner

and

The District Collector, Krishna at Machilipatnam, and, ors

...Respondents.

THE HON'BLE MR JUSTICE R.SUBHASH REDDY

WRIT PETITION NO : 28753 of 1997

ORDER:

The petitioner, who claims to be in possession of the land to an extent of Ac.0.50 cents covered by M.S.No. 55 of Ayyavari Rudravaram village, Mandavalli Mandal, Krishna District, has filed this Writ Petition seeking Writ of Mandamus to declare the action of the respondents in proposing to evict him from the said land as illegal and arbitrary.

In the affidavit filed in support of the Writ Petition, it is stated that the above said land was in possession of his father till 1990 and there after he is in possession of the same and the said land is being used for agricultural purpose. It is further stated that on either side of the

above said land, he had planted coconut trees. It is the grievance of the petitioner that the respondent authorities are taking steps to evict him from the said land, without any authority of law, and without issuing prior notice.

In the counter affidavit filed on behalf of the respondents, it is stated that the above said piece of land was not in possession of the father of the petitioner and it was in possession of one Sri Busanaboyina Babu Rao upto 1983, and after his death, his wife, by name, Smt. Jayalaxmi cultivated the said land upto the year 1985. It is further stated that the third respondent was directed by the District Collector to conduct enquiry on a complaint made by Smt. Jayalaxmi, stating that the petitioner has illegally occupied the said land, which was in her possession. While admitting that no steps have been taken under the provisions of the Land Encroachment Act, 1905 to evict the petitioner from the above said land, it is stated that the land in question is classified as the P.W.D. canal poramboke and encroachment is objectionable.

Though it is stated that the land in occupation of the petitioner is the P.W.D. canal poramboke and encroachment is objectionable, but however, as it is stated that no steps have been taken under the Land Encroachment Act to evict the petitioner from the land in question, I dispose of the Writ Petition directing the respondents not to dispossess the petitioner from the above said land otherwise than by due process of law. It is made clear that if the said land is classified as P.W.D. canal poramboke and encroachment is

objectionable, it is open for the respondents to initiate action under the provisions of the Land Encroachment Act, 1905 and pass appropriate orders.

Subject to the above direction, the Writ Petition is disposed of. No order as to costs.

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JUSTICE R. SUBHASH REDDY

DATE: 24-01-2007.
Msnr.